

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**JOSE GALLEGOS and
BARBARA GALLEGOS, on
behalf of their minor son, E.G.,**

Plaintiffs,

v.

**PHILLIP GALLEGOS, in his individual
capacity,**

Defendant.

**PLAINTIFFS JOSE GALLEGOS AND BARBARA GALLEGOS' COMPLAINT FOR
VIOLATIONS OF CONSTITUTIONAL RIGHTS
*AND DEMAND FOR JURY***

COME NOW Jose Gallegos and Barbara Gallegos, on behalf of their minor son, E.G., and bring these claims for violation of E.G.'s civil rights against Defendant Phillip Gallegos, public school teacher with the Chama Valley Independent Schools ("CVIS"). See U.S. CONSTIT. Amend. XIV; 42 U.S.C. § 1983. In support of their Complaint, Plaintiffs state as follows:

PARTIES, JURISDICTION & VENUE

1. Plaintiffs are residents of Rio Arriba County.
2. Plaintiffs are the natural parents of their minor son E.G.
3. During all material times, E.G. was a student at Chama Valley Elementary School, which is part of CVIS a public school district in the State of New Mexico.
4. During all material times, during both fourth and fifth grade, Defendant Phillip Gallegos was E.G.'s teacher and was acting within the course and scope of his duties.

5. This court has personal jurisdiction over Defendant.
6. All events giving rise to this lawsuit occurred in New Mexico.
7. Plaintiffs are citizens of New Mexico.
8. Because this suit is for violation of a right guaranteed by the federal constitution, this court has federal question jurisdiction herein pursuant to 28 U.S.C. Section 1331.

FACTUAL BACKGROUND

9. E.G. attended fourth grade at CVIS in 2021-22 and fifth grade at CVIS in 2022-23.
10. During both fourth and fifth grades, Defendant Phillip Gallegos was E.G.'s teacher at CVIS.
11. Defendant Phillip Gallegos used excessive corporal punishment on E.G.
12. Defendant Gallegos struck E.G. on his head, face, and back in anger during multiple instances over the course of E.G.'s fourth and fifth grade school years.
13. As a full-grown adult male, Defendant Gallegos was much larger than E.G.
14. Defendant Gallegos' striking E.G. was arbitrary and untethered to any legitimate disciplinary or educational goal.
15. Defendant Gallegos' physical domination of E.G. was malicious

VIOLATION OF E.G.'S FOURTEENTH AMENDMENT SUBSTANTIVE DUE PROCESS RIGHT TO BE FREE FROM CONSCIENCE-SHOCKING BEHAVIOR AND ARBITRARY INTRUSIONS INTO HIS PHYSICAL INTEGRITY

16. Plaintiffs reallege and reassert all prior paragraphs of this Complaint as if fully set forth herein.
17. E.G. has a Fourteenth Amendment substantive due process right to be free from conscience shocking behavior and arbitrary intrusions into his physical or personal integrity.

18. Gallegos' punishment of E.G. was excessive and outrageous.
19. Gallegos's actions shock the conscience.
20. Gallegos arbitrarily intruded into E.G.'s physical and personal integrity.
21. Gallegos was acting within the scope of his duties when he violated E.G.'s Fourteenth Amendment substantive due process right.
22. As a public-school teacher, Gallegos acted under color of state law.
23. As a direct and proximate result of Gallegos's conduct set forth above, E.G. suffered physical injury, mental distress, fear, severe anxiety, and emotional suffering.
24. There was a reasonably foreseeable risk of serious bodily injury to E.G. from Gallegos's actions.
25. The rights in question were clearly established prior to the events complained of herein, and a reasonable person would have known that his or her conduct violated E.G.'s constitutional rights.

JURY DEMAND

Plaintiffs demand a jury of six persons.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that the Court:

- A. Enter judgment in his favor and against Defendant;
- B. Award Plaintiffs E.G.'s damages to the fullest extent of the law, including for bodily injury, emotional distress, and loss of liberty and personal freedom, as well as any additional compensatory damages, costs, and pre and post judgment interest, to the fullest extent of the law;
- C. Award Plaintiffs their statutory attorney fees; and
- D. Award any further relief that the Court deems just and proper.

Respectfully submitted:

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